

4011.0.0 ACCOUNTING FOR DISCLOSURES OF PROTECTED HEALTH INFORMATION

4011.1.0 Purpose

To establish Health Information Portability and Accountability Act (HIPAA) compliant policies and procedures for tracking and accounting for disclosures of Protected Health Information (PHI).

4011.2.0 Policy

4011.2.1 Pursuant to 45 CFR 164.528, Department of Human Services (DHS) clients (and their legal representatives) have a right to request an accounting of PHI disclosures that DHS has made for a period of up to six years previous to the date of request. It is DHS policy that all disclosures of client PHI (subject to accounting and tracking) will be recorded on the Protected Health Information (PHI) Tracking Sheet, Form DHS-4002, and entered into the PHI Disclosure Tracking system for retrieval.

4011.2.2 Upon receipt of a request for an accounting of PHI disclosures, DHS will have a maximum of 60 calendar days to compile the accounting of disclosures and respond to the client request. If DHS is unable to comply with the client's request for an accounting of PHI disclosures within 60 calendar days, DHS may make a one-time extension of the time frame for response by 30 calendar days.

4011.2.3 The accounting of PHI disclosures must include:

- A. The date of the disclosure.
- B. The name, and address if known, of the person or entity that received the disclosed PHI.
- C. A brief description of the information disclosed.
- D. A brief statement of the purpose of the disclosure that reasonably informs the client of the basis for the disclosure, or, in lieu of such statement, a copy of the client's written request for the accounting of disclosures.

4011.3.0 Disclosures subject to tracking and accounting include:

4011.3.1 Abuse Reports. PHI provided (other than protective services staff who respond to such reports) pursuant to mandatory abuse reporting laws to an entity authorized by law to receive abuse reports.

4011.3.2 Audit Review. PHI provided from a client record in relation to an audit or review of a provider or contractor.

4011.3.3 Health and Safety. PHI provided to avert a serious threat to the health and/or safety of a person or persons.

- 4011.3.4 Licensee/Provider. PHI provided from a client record in relation to licensing, regulation or certification of a provider or licensee involved with the provision of care or services to the client.
- 4011.3.5 Legal Proceedings. PHI ordered to be disclosed pursuant to a court order.
- 4011.3.6 Law Enforcement Official/Court Order. PHI provided to a law-enforcement official pursuant to a court order.
- 4011.3.7 Law Enforcement or Other Official/Deceased. PHI concerning a deceased client provided to law-enforcement official, medical examiner or other official for the purpose of identifying a deceased person, determining the cause of death, or for other reasons authorized by law.
- 4011.3.8 Law Enforcement Official/Warrant. To the extent permitted by law, PHI provided to a law-enforcement official concerning a fleeing felon or client subject to an arrest warrant.
- 4011.3.9 Public Health Official. PHI provided to a public health official for the reporting of disease or injury or for the conduct of a public health study or investigation.
- 4011.3.10 Public Record. PHI disclosed pursuant to a Public Record request without the client's authorization.
- 4011.3.11 Research. PHI provided for research purposes using a waiver of authorization provided by an Institutional Review Board (IRB).

4011.4.0 Disclosures not subject to tracking and accounting include:

4011.4.1 Disclosures for Treatment, Payment and Operations (TPO).

- A. Treatment – the provision, coordination, or management of health care and related services, consultation between providers relating to an individual, or referral of an individual to another provider for health care.
- B. Payment – activities undertaken to obtain or provide reimbursement for health care, including determinations of eligibility or coverage, billing, collection activities, medical necessity determinations and utilization review.
- C. Operations – functions such as quality assessment and improvement activities, reviewing competence or qualifications of health care professionals, conducting or arranging for medical review, legal services and auditing functions, business planning and development, and general business and administrative activities.

4011.4.2 Disclosures to the Client.

4011.4.3 Disclosures made pursuant to a valid authorization of the client.

- 4011.4.4 Disclosures or uses made subject to the client's opportunity to object, including:
- A. Use to maintain a facility directory and disclosures from the directory to clergy and persons who ask for the individual by name.
 - B. Use and disclosure to persons involved with the client's care, payment for services, or for notification of general condition or death to persons responsible for the care of the client.
 - C. Disclosures for disaster relief purposes.
- 4011.4.5 Use and disclosures for national security and intelligence activities.
- 4011.4.6 Use and disclosures to correctional institutions and other law enforcement custodial situations.
- 4011.4.7 Disclosure as part of a limited data set, which excludes direct identifiers for research, public health, or health care operations. Refer to DHS Policy 4009 for specific guidance.
- 4011.4.8 Disclosures, which occurred prior to the effective date of HIPAA Privacy requirements.

PROCEDURES

4011.5.0 Requests for Accounting of PHI Disclosures

Clients (or their legal representatives) may make their requests in-person, by letter, by facsimile or orally by phone. A request for an accounting of PHI disclosures must identify the record holder and the period of time covered by the request. When a request for an accounting is received:

- A. The DHS staff member receiving the request for an accounting must document the identity of the requestor by identification badge, driver's license, written statement of identity on agency letterhead, or similar proof. When an oral request is received in person or by phone, DHS will confirm the request with a written statement describing the request and obtain a client signature for authentication.
- B. When the request for accounting is documented and accepted, the client will be provided an acknowledgement statement indicating when he can expect to receive an accounting. Form DHS 4009 will be used for this purpose.
- C. The client's health record will be reviewed to determine if PHI disclosures have occurred during the time period covered by the client's request. This will be accomplished through manual review of the Protected Health

Information (PHI) Tracking Sheet, DHS- 4002, or inquiry to the PHI Disclosure Tracking system. If accounting of disclosures cannot be completed within 60 days of the request, the client will be notified using form DHS 4011.

- D. When a list of disclosures has been compiled, form DHS 4010 will be completed and the form and list of disclosures will be forwarded to the client.
- E. If the client has any questions concerning the content of the accounting, he/she will be referred to the DHS Privacy Official at:

Arkansas Department of Human Services
DHS Privacy Official
P.O. Box 1437 Mail Slot S201
Little Rock, Arkansas 72203-1437
Phone: 501-682-8650
Email: <mailto:Privacyofficial@mail.state.ar.us>
Phone 501-582-8920, TDD 501-682-8933 or Fax 501-682-8884

- F. Client requests for accountings of PHI disclosures will be filed in the client's health record and maintained for a period of 6 years from the date the request is completed.

4011.6.0 Any questions concerning DHS Policy Number 4011 should be directed to:

DHS Office of Chief Counsel
Post Office Box 1437/Slot S260
Little Rock, Arkansas 72203-1437
Telephone: (501) 682-8934